

Applicant : Vladimir BAKHUTASHVILI
U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 2

REMARKS

Claims 2, 3, 23, 24, 65, 67 and 85-98 are pending in this Application.

Election/Restrictions Requirement

The Examiner to whom this application is assigned indicated that the following inventions or groups of inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37 CFR 1.499, Applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Under 35 U.S.C. § 121 and 372, restriction to one of the following groups of inventions is required:

- I. Group I, claim(s) 2-3, 65, 85-96 drawn to a composition.
- II. Group II, claim(s) 23-24, 98, drawn to a method of improving skin condition.
- III. Group III, claim(s) 67 and 97, drawn to a method for protecting cardiomyocytes.

In response, Applicant respectfully traverses the above restriction.

Under MPEP, there are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) the inventions must be independent (see MPEP § 802.01, § 806.04, §

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Page : 3

808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and (B) there must be a serious burden on the Examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02). If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes independent claims or distinct inventions.

Groups II and III are claimed methods of use of the compositions of Group I. Therefore, Groups I, II and III are not independent, and claims 2, 3, 23, 24, 65, 67 and 85-98 (Groups I, II & III) are connected by a single, searchable relationship.

Applicant further maintains that the Examiner would not be seriously burdened by searching and examining the claims of Groups I-III in a single application. A search for the composition (Group I) will reveal prior art in connection with the methods of use of said compositions (Groups II and III). Given the single, searchable unifying relationship, the Examiner would not be seriously burdened by searching and examining the claims of these groups in a single application. (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02) Accordingly Applicant requests withdrawal of the restriction of claims 2, 3, 23, 24, 65, 67 and 85-98.

Election of Invention

In the event that the Examiner decides that the above arguments are not persuasive, Applicant elects Group I, with traverse, consisting of claims drawn to a composition.

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U.S. Serial No.: 10/795,819
Filing Date : March 8, 2004
Page : 4

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone at the number provided below.

No fee is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

Respectfully submitted,

I hereby certify that this paper
is being facsimile transmitted to:

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